

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
JACKSON DIVISION**

**JACKSON WOMEN’S HEALTH
ORGANIZATION, on behalf of itself and its
patients, et al.**

PLAINTIFFS

VS.

Civil Action No. 3:18-CV-171–CWR-FKB

**THOMAS E. DOBBS, M.D., M.P.H., in his
official capacity as State Health Officer
of the Mississippi Department of Health, et al.**

DEFENDANTS

**MOTION TO DISMISS OR, IN THE ALTERNATIVE,
FOR PARTIAL SUMMARY JUDGMENT**

The State Defendants, Dr. Thomas Dobbs, in his official capacity as the State Health Officer of the Mississippi State Department of Health, and Dr. Kenneth Cleveland, in his official capacity as the Executive Director of the Mississippi Board of Medical Licensure, respectfully submit this Motion to Dismiss or, in the Alternative, for Partial Summary Judgment, and in support thereof would show as follows:

1. For the reasons described more fully in Defendants’ memorandum in support, which is being filed contemporaneously herewith, the State Defendants are entitled to dismissal of certain of Plaintiffs’ claims for failure to state a claim pursuant to Fed. R. Civ. P. 12(b)(6).
2. In the alternative, for the reasons described more fully in Defendants’ memorandum in support, which is being filed contemporaneously herewith, the State Defendants are entitled to Partial Summary Judgment pursuant to Fed. R. Civ. P. 56.
3. In support of this motion, Defendants rely in part on the following, which are attached hereto as exhibits:

- Exhibit 1 Mississippi Informed Consent Booklet
- Exhibit 2 Informed Consent Resources List
- Exhibit 3 Minimum Standards of Operation for Abortion Facilities
- Exhibit 4 Minimum Standards of Operation for Ambulatory Surgical Facilities
- Exhibit 5 Deposition of Shannon Brewer (Excerpts)
- Exhibit 6 Abortion Procedures Performed by JWHO 1995-2020
- Exhibit 7 Deposition of Dr. Jason Lindo (Excerpts)
- Exhibit 8 Deposition of Dr. Carr-Ellis (excerpts) (redacted)
- Exhibit 9 Plaintiffs' Responses to Defendants' First Set of Interrogatories
- Exhibit 10 Deposition of Dr. Donna Harrison (Excerpts)
- Exhibit 11 REMS for Mifepristone
- Exhibit 12 Declaration of Dr. Byron Calhoun
- Exhibit 13 August 21, 2013 Email from Shannon Brewer to Ann Kavanaugh
- Exhibit 14 2016 Grindlay - *Telemedicine provision of medical abortion in Alaska-through the Provider's Lens*
- Exhibit 15 JWHO Annual Survey 2019
- Exhibit 16 JWHO Annual Survey 2020
- Exhibit 17 Declaration of Dr. Kenneth E. Cleveland, M.D.
- Exhibit 18 Report of Induced Termination of Pregnancy (blank)

WHEREFORE, PREMISES CONSIDERED, the State Defendants respectfully request that the Court enter an order dismissing Plaintiffs' claims for failure to state a claim pursuant to Fed. R. Civ. P. 12(b)(6); or, in the alternative, granting the State Defendants Partial Summary Judgment pursuant to Fed. R. Civ. P. 56.

Respectfully submitted this the 29th day of April, 2021.

**THOMAS E. DOBBS, M.D., M.P.H., in his
official capacity as STATE HEALTH OFFICER
OF THE MISSISSIPPI DEPARTMENT OF
HEALTH, and KENNETH CLEVELAND,
M.D., in his official capacity as EXECUTIVE
DIRECTOR OF THE MISSISSIPPI STATE
BOARD OF MEDICAL LICENSURE**

By: s/Paul Barnes
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CERTIFICATE OF SERVICE

This is to certify that on this day I, Paul E. Barnes, Special Assistant Attorney General for the State of Mississippi, electronically filed the foregoing document with the Clerk of the Court using the ECF system which sent notice of such filing to all counsel of record.

THIS, the 29th day of April, 2021.

s/Paul Barnes

PAUL E. BARNES